

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.1097 OF 2004**

Nirmala Devi Bhikalal Gupta

...Appellant

Vs.

The Municipal Corporation of
Greater Mumbai and Ors.

...Respondents

Mr.Anil R. Mishra for the Appellant.

**CORAM: A.S.OKA, J.
DATED: JANUARY 11, 2005.**

P.C.:

1. Heard the Counsel appearing for the Appellant. The challenge is to the order dated 25th June 2004 passed by the learned Trial Judge by which the Notice of Motion for temporary injunction taken out by the Appellant has been dismissed. The learned Trial Judge proceeded to vacate the ad-interim order granted in favour of the Appellant on 27th January 2004. The learned Trial Judge declined to continue the order of ad-interim relief.

2. The learned Counsel for the Appellant pointed out that the application for obtaining certified copy of the order was made on the same day and copy was made available nearly five months thereafter i.e. 16th November 2004. He pointed out that the structure in question was demolished on 26th June 2004. He submitted that as copy of the order was not made available, the Appellants were prevented from preferring an Appeal and obtaining suitable order from this Court. He also

made a grievance that the structure was hurriedly demolished by the Municipal Corporation of Greater Bombay. He urged that the entire order is erroneous and the reasoning of the learned Trial Judge is perverse.

3. The prayer in the Notice of Motion was for temporary injunction restraining the Authorities from demolishing the suit structure. Even if the Appeal is to be allowed, the relief claimed in the Notice of Motion cannot be granted as the prayer in the Notice of Motion has become infructuous because of subsequent demolition of the suit structure. It is for the Appellant to take out appropriate proceedings, if so advised.

4. In view of the demolition of the suit structure, the Appeal is not entertained and is dismissed. However, it is made clear that I have not confirmed the impugned order on merits. The observations which are made in the impugned order are obviously for limited purpose of granting ad-interim relief. If appropriate proceedings are taken out by the Appellant for restoration of the suit structure, the said proceedings will be decided on its own merits. It will be open for the Appellants to request the S.R.A./Deputy Collector to expeditiously dispose of the application made by them for establishing alleged eligibility to secure alternate accommodation.

5. Parties to act upon an authenticated copy of this order.

Judge.